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8 Attorneys for Defendant  
9 CARRIER CORPORATION

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**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**

ROBERT SCHOELZEL,

Case No. C 08-03113 JSW

Plaintiff,

v.

ALLIS-CHALMERS CORP., et al,

**JOINT STIPULATION TO DISMISS  
DEFENDANT CARRIER  
CORPORATION AND TO REMAND  
ACTION TO STATE COURT**

Defendants.

[Local Rules 7-1 and 7-12; FRCP 41]

Come now Plaintiff ROBERT SCHOELZEL ("Plaintiff") and Defendant CARRIER CORPORATION ("CARRIER"), who file the following joint stipulation pursuant to Local Rules 7-1 and 7-12:

WHEREAS, Defendant CARRIER removed this case to the United States District Court for the Northern District of California on June 27, 2008, on the ground that the Court has "federal officer" subject matter jurisdiction under 28 United States Code § 1442(a) based on Plaintiff's allegations that his injury was caused by products designed and manufactured by CARRIER under the supervision and control of the United States government;

WHEREAS, Defendant CARRIER was the sole removing defendant and no other defendant joined in removal or filed a separate notice of removal;

WHEREAS, Plaintiff and Defendant CARRIER, the affected parties, have now reached a resolution of Plaintiff's claims against CARRIER;

1 WHEREAS, Defendant CARRIER's desire for a federal forum for this action is now  
2 moot given the resolution of Plaintiff's claims against it; and

3 WHEREAS, pursuant to the parties' resolution, Plaintiff and Defendant CARRIER seek  
4 to have this action remanded to state court, IT IS HEREBY STIPULATED by the affected  
5 parties, Plaintiff and Defendant CARRIER, that all claims against Defendant CARRIER shall be,  
6 and hereby are, dismissed with prejudice pursuant to Rule 41 of the Federal Rules of Civil  
7 Procedure and that this action shall be, and hereby is, immediately remanded to the San  
8 Francisco County Superior Court, the court in which it was originally filed and from which it  
9 was removed.

10 DATED: November 3, 2008

BRAYTON PURCELL

11  
12 By: 

13 Richard Grant  
14 Attorneys for Plaintiff  
15 ROBERT SCHOELZEL

16 DATED: November \_\_\_, 2008

TUCKER ELLIS & WEST LLP

17  
18 By:

19 Lance Wilson  
20 Attorneys for Defendant  
21 CARRIER CORPORATION

22 **PURSUANT TO STIPULATION, IT IS SO ORDERED.** Case is REMANDED to the  
23 Superior Court of California, County of San Francisco, Case. No. 453669. The Clerk shall send  
24 a certified copy of this Order to the Clerk of the Court for the Superior Court of California,  
25 County of San Francisco.

Dated: November \_\_\_, 2008

By: \_\_\_\_\_

HONORABLE JEFFREY S. WHITE  
UNITED STATES DISTRICT JUDGE

1           WHEREAS, Defendant CARRIER's desire for a federal forum for this action is now  
2 moot given the resolution of Plaintiff's claims against it; and

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7 Procedure and that this action shall be, and hereby is, immediately remanded to the San  
8 Francisco County Superior Court, the court in which it was originally filed and from which it  
9 was removed.

10 DATED: October \_\_\_, 2008

BRAYTON PURCELL

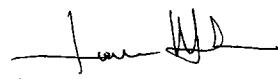
12 By:

Richard Grant  
Attorneys for Plaintiff  
ROBERT SCHOELZEL

16 DATED: November 3, 2008

TUCKER ELLIS & WEST LLP

18 By:

  
Lance Wilson  
Attorneys for Defendant  
CARRIER CORPORATION

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25 Dated: October \_\_\_, 2008

By:

November 7, 2008

  
HONORABLE JEFFREY S. WHITE

UNITED STATES DISTRICT JUDGE